

REMARKS

Claims 1-45 are pending in the present application. Claims 15-41 have been withdrawn from consideration, and claims 1-14 have been rejected. Claims 42-45 are new. No new matter is included in the new claims. The attention of the Office is directed to page 14, line 5 where "hinge" is mentioned. The attention of the Office is directed to page 11, line 23 where the "neck" of a vial is mentioned. Reconsideration is requested.

Applicant is submitting with this amendment formal drawing sheets to replace the informal drawing sheets originally filed. Only a correction to the indication of cross section was made to FIG. 9. Otherwise, no changes to the drawings have been made.

In line 16 of claim 1, "second" was replaced with "first" to correct a clerical error. The term "adapted" was amended to --formed-- in response to the comment by the Office. However, applicant traverses the comment by the Office that "adapted" provides no limitation. It has been held that each word in a claim provides a limitation. A typical definition of "adapted" means "made suitable to or fit for a specific use or situation" (American Heritage Dictionary). The words "made suitable" in the very meaning of the word "adapted" make it clear that the structure of the claimed element is limited in the manner recited and thus the words "adapted to" should be given weight as a limitation. Rather than argue semantics of the word "adapted" at the expense of applicant, applicant has elected to replace the word with --formed--, although applicant submits that no change in substance of the claim has occurred by virtue of this word replacement amendment.

Claims 1-3, 6, and 9-14 have been rejected under 35 U.S.C. §102(b) as being anticipated by Fowles et al. (U.S. Pat. No. 6,063,068). Applicant respectfully traverses the rejections.

Applicant has amended claim 1 to recite that both sets of claws are located and formed to snap under the closure of the vial about the neck. Applicant submits that Fowles et al. do not disclose or suggest such a feature. The long narrow structure of the ribs 92 disclosed in Fowles et al. (the Office cited numeral 100, FIG. 6, but Applicant believes that the Office meant to refer to numeral 92; see column 9, line 65 of Fowles et al.) are not capable of snapping under the closure of the vial. These ribs are designed for:

indenting one or more sidewall portions 102 of the metal crimp 26 of the vial 14 FIG. 2 in order to inhibit the vial 14 . . .

(see column 10, lines 7-10).

Applicant also traverses the Office statement that Fowles et al. discloses the claimed "cannula comprises a protruding rib" in claims 11-13. An embodiment of such a claimed rib is shown in FIG. 14 of applicant's application and is referred to by drawing reference numeral 99. It will be noted that the cannula 33 comprises the rib 99, as claimed. The Office states at page 3, top of the page, that reference numeral 218 is a rib in Fowles et al. The only item having numeral 218 that applicant could locate in Fowles et al. is in FIG. 10 and it is not shown as being a part of the cannula ("piercing member" 34). It is shown and described as being a part of the sheath 206 (column 14, lines 13-25). There is no rib on the piercing member that applicant can locate and thus no anticipation by Fowles et al.

For the above reasons, applicant submits that Fowles et al. does not disclose each and every element of claims 1-3, 6, and 9-14 and therefore does not anticipate these claims. Applicant requests that the rejections be withdrawn.

Claims 4, 5, 7, and 8 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Fowles et al. and applicant traverses the rejections. Specifically, applicant traverses the statement by the Office regarding claims 4 and 5 that making the second set of claws thinner is merely design choice. These claws were made thinner for the specific purpose recited in the claim. That is, so that they would experience plastic deformation. The advantage of such a feature is shown in FIG. 5 and is specifically recited at page 12, line 28 to page 13, line 7. By plastically deforming, the deformed claws do not tend to eject the vial from the adapter. This is more than mere "design choice." The Office has not cited a reference that discloses or even suggests such a feature.

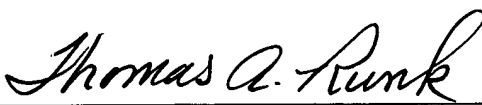
As for the remaining claims rejected under §103, applicant traverses. Claims 7 and 8 are dependent from claim 1 and as argued above, Fowles et al. does not include a second set of claws each of which is located and formed to snap under the closure of the vial about the neck. Accordingly applicant requests that the rejections of claims 4, 5, 7 and 8 be withdrawn.

In view of the foregoing, applicant respectfully submits that all pending claims are allowable over the cited art and requests that the rejections be withdrawn.

While applicant believes that no fee is due with this response, the Commissioner is authorized to charge deposit account no. 06-2425 for any unforeseen fees arising from the filing of this paper.

Respectfully submitted,

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IN THE DRAWINGS

Applicant is submitting five formal drawing sheets to replace the five informal drawing sheets that were originally filed.